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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,915	02/13/2001	Kenneth G. Noggle	00-003	3193

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EXAMINER

ROSS, DANA

ART UNIT

PAPER NUMBER

3722

DATE MAILED: 05/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/782,915

Applicant(s)

NOGGLE, KENNETH G.

Examiner

Dana Ross

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 20-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-32 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other:

**DETAILED ACTION**

1. This is a second office action, final rejection on Application No. 09/782,915 in response to the amendment filed on March 31, 2003.

***Claim Rejections - 35 USC § 112***

2. The rejection of claim 12 for insufficient antecedent basis for the limitation of "said tool body" is withdrawn because of the amendment filed on March 31, 2003.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,391,023 (Basteck).

In regard to claim 1, Basteck teaches a cavity 31 (col. 2, lines 60-63, fig. 2) in a holder 12 (col. 2, lines 26-29, fig. 2) at least a portion of the cavity 31 contiguous with the pocket 17 containing the insert 18 (col. 2, lines 60-63, fig. 2), with an intermediate component 32 separate from the holder 12 and disposed within the cavity 31, the intermediate component 32 comprising an external peripheral surface 33 (col. 2, lines 60-63) and at least one expansion mechanism 44 (col. 3, lines 16-18), the external peripheral surface 33 engaging the insert 18 at the contiguous portion (col. 3, lines 11-14) and a wedging device 37 movably attached to the holder 12 and engaging the intermediate component 32 (col. 3, lines 1-7) such that actuation of the wedging device 37 results in expansion of the intermediate component 32 in a direction substantially

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parallel to a desired direction of the adjustment of the insert 18 (col. 3, lines 16-30). Basteck discloses the claimed invention except for the wedging device (adjusting screw) engaging the holder. It would have been an obvious matter of design choice to increase the size of the adjustment screw such that it continued on in length and threadingly engaged the holder, since such a modification would have involved a mere change in the size of the component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (SSPA 1955).

In regard to claim 2, Basteck also teaches the expansion mechanism 44 comprises slots 47 and a tapered portion disposed in a first region (fig. 2, col. 3, lines 14-16) of an internal peripheral surface 35 of the intermediate component 32 (fig. 2, col. 2, lines 63-66).

In regard to claim 3, Basteck also teaches the wedging device 37 comprises a conical wedge 39 (fig. 2, col. 3, lines 1-7).

In regard to claim 4, Basteck teaches all aspects of the claimed invention as described in the above claim 1 rejection. Basteck also teaches the wedging device 37 includes an adjustment screw 38 threadingly engaged to the intermediate component (fig. 2, col. 3, lines 1-7). Basteck discloses the claimed invention except for the adjustment screw threadingly engaging the holder. It would have been an obvious matter of design choice to increase the size of the adjustment screw such that it continued on in length and threadingly engaged the holder, since such a modification would have involved a mere change in the size of the component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (SSPA 1955). Further more, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to threadingly engage

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the holder with the adjustment screw because Applicant has not disclosed that not engaging the holder with the adjustment screw provides an advantage, is used for a particular purpose or solves a stated problem.

In regard to claim 5, Basteck also teaches the intermediate component 32 defines a portion of the pocket 17 side of the pocket 17 (fig. 2, col. 2, lines 60-63).

In regard to claim 6, Basteck also teaches the intermediate component 32 further comprises opposite end faces facing generally parallel to a direction of movement of the wedging device 37, each end face being intersected by at least one expansion element 44 (fig. 2, col. 3, lines 1-37).

In regard to claim 7, Basteck also teaches the actuation of the wedging device 37 causes expansion of the intermediate component 32 along substantially the entire length of the component 32 (fig. 2, col. 3, lines 1-37).

***Allowable Subject Matter***

5. Claims 20-32 are allowed.
6. The following is an examiner's statement of reasons for allowance: The closest prior art of record neither anticipates nor renders obvious a method or device for adjusting the position of an insert wherein tightening a wedging device disposed in a hole of a sleeve while the second portion of the peripheral surface of the sleeve engages a wall, causing a conical wedging surface of the wedging device to contact both the tapered portion and the cylindrical portion whereupon the wedging device exerts a wedging action against the tapered portion of the hole surface, causing expansion of the first portion of the external surface, resulting in the change of position

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of the insert; the sleeve having opposite first and second ends, having respective first and second pairs of oppositely disposed slots.

The closest prior art of record found it U.S. Pat. No. 5,391,023 (Basteck). Basteck teaches the sleeve with only one pair of slots, and does not teach the sleeve having opposite first and second ends with respective first and second pairs of oppositely disposed slots. Basteck also teaches the sleeve contacting the wall of the holder after the adjustment of the insert has been complete, avoiding adjustment of the insert when the second portion of the sleeve's outer periphery engages the cavity wall.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### *Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dana Ross whose telephone number is (703) 305-7764. The examiner can normally be reached on Mon-Fri 7:00am - 3:30pm.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (703) 308-2159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

dmr  
May 1, 2003

A. L. WELLINGTON  
SUPERVISORY PATENT EXAMINER  
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